



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,027	11/05/2001	J. Edward McEachern	33035US1	4061
116 7590 09/06/2007 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			EXAMINER TOMASZEWSKI, MICHAEL	
			ART UNIT 3626	PAPER NUMBER
			MAIL DATE 09/06/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/008,027	MCEACHERN, J. EDWARD	
	Examiner	Art Unit	
	Mike Tomaszewski	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice To Applicant

1. This communication is in response to the amendment filed on 6/21/07. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office Action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/21/07 has been entered. Claims 35-51 are new and claims 1-51 are pending.

Specification

2. After further consideration and clarification of Applicant's support provided in the 6/21/07 amendment, the new matter objection is hereby withdrawn.

Claim Rejections - 35 USC § 112

3. After further consideration and clarification of Applicant's support provided in the 6/21/07 amendment, the new matter rejection is hereby withdrawn

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-11, 14-36 and 38-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraftson et al. (6,151,581; hereinafter Kraftson), in view of Joao (6,283,761; hereinafter Joao), in view of Siegrist, Jr. et al. (5,652,842; hereinafter Siegrist), and in view of Official Notice.

(A) As per currently amended claim 1, *Kraftson* discloses a system for collecting, processing, and presenting survey information comprising:

- (1) a survey communication system for connecting to survey participants for conducting a survey to obtain survey data, said survey communication system capable of executing software scripts for implementing desired automated survey routines (*Kraftson*: abstract; col. 21, lines 14-24; Fig. 1-23);
- (2) a customer viewpoint module for providing software scripts to said survey communication system for surveying survey participants who are

customers using a drill-down method, said survey data obtained from the customers including patient viewpoint data (Kraftson: abstract; col. 21, lines 14-24; Fig. 1-23);

- (3) a personal clinical data analysis module for automatically generating analyzed data generated by analyzing said survey data, wherein said personal clinical data analysis module generates reports on said analyzed data for use by the survey consumer (Kraftson: abstract; col. 2, line 51-col. 3, line 7; Fig. 1-23);
- (4) a viewpoint module for providing software scripts to said survey communication system for surveying survey participants and further for receiving said survey data from said survey communication system, said survey data obtained from the participants including viewpoint data (Kraftson: abstract; col. 21, lines 14-24; Fig. 1-23); and

Kraftson, however, fails to *expressly* disclose a system for collecting, processing, and presenting survey information comprising:

- (5) an *automated* survey communication system [Emphasis added];
- (6) an *office team* viewpoint module viewpoint module for providing software scripts to said survey communication system for surveying survey participants *who are employees* using a drill-down method, said survey

data obtained from the employees including employee viewpoint data

[Emphasis added];

- (7) an office data presentation module for generating assessed survey information for presenting to end users in a formatted manner, said assessed survey information including information for providing quality assessments of an organization, wherein
- (8) said drill-down method utilizes one or both of survey data already provided by a current survey participant and historical survey data to determine a subsequent survey question to be asked of the current survey participant, and further wherein
- (9) said system automatically displays survey results to each survey participant utilizing historical survey data, said displayed analyzed feedback formatted in a custom manner based on whether the current survey participant is a customer, or is an employee or a manager.

Nevertheless, these features are old and well known in the art, as evidenced by Joao and Siegrist. In particular, Joao and Siegrist disclose a system for collecting, processing, and presenting survey information comprising:

- (5) an *automated* survey communication system (Joao: abstract; col. 2, lines 54-63; col. 4, lines 26-33; col. 7, lines 33-43; col. 19, lines 54-64; Fig. 1-15B);

- (6) an *office team* viewpoint module viewpoint module for providing software scripts to said survey communication system for surveying survey participants *who are employees* using a drill-down method, said survey data *obtained from the employees including employee viewpoint data* (Joao: abstract; col. 2, lines 54-63; col. 4, lines 26-33; col. 7, lines 33-43; col. 19, lines 54-64; col. 41, line 55-col. 43, line 29; Fig. 1-15B);
- (7) an office data presentation module for generating assessed survey information for presenting to end users in a formatted manner, said assessed survey information including information for providing quality assessments of an organization (Siegrist: abstract; col. 1, lines 5-col. 2, line 61; Fig. 1-13f), wherein
- (8) said drill-down method utilizes one or both of survey data already provided by a current survey participant and historical survey data to determine a subsequent survey question to be asked of the current survey participant (Joao: col. 29, lines 15-39), and further wherein
- (9) said system automatically displays survey results to each survey participant utilizing historical survey data, said displayed analyzed feedback formatted in a custom manner based on whether the current survey participant is a customer, or is an employee or a manager (Joao: col. 4, lines 27-33; col. 19, lines 7-11; col. 20, lines 21-27).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Joao with the combined teachings of Kraftson and Siegrist with the motivation of improving the quality of products or services rendered (Joao: col. 2, lines 46-54).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Siegrist with the combined teachings of Kraftson and Joao with the motivation of improving the quality of products or services rendered (Kraftson: abstract).

Examiner also notes that nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability. See *In re Nagi*, 367 F.3d 1336, 1339, 70 USPQ2d 1862, 1864 (Fed. Cir. 2004) (combining printed instructions and an old product into a kit will not render the claimed invention nonobvious even if the instructions detail a new use for the product); and *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability). Common situations involving nonfunctional descriptive material are as follows: a computer that differs from the prior art solely with respect to nonfunctional descriptive material that cannot alter how the machine functions (i.e., the descriptive material does not reconfigure the computer); a process that differs from the prior art only with respect to nonfunctional descriptive material that cannot alter how the process steps are to be performed to achieve the

Art Unit: 3626

utility of the invention; and a computer-readable storage medium that differs from the prior art solely with respect to nonfunctional descriptive material, such as music or a literary work, encoded on the medium. See MPEP § 2106.

As such, nonfunctional descriptive material found in claims 1-33 (e.g., practice data, historical performance normative data, pathophysiologic normative data, various customer viewpoint data, various employee viewpoint data, various team function data, various fiscal performance data, etc.) will not distinguish the claimed invention from the prior art (e.g., Kraftson, Joao, Siegrist, etc.) in terms of patentability.

(B) As per original claim 2, Kraftson discloses the system according to claim 1 wherein said generating assessed survey information for presenting to end users in a formatted manner utilizes a compass viewpoint information presentation paradigm (Kraftson: abstract; col. 2, line 51-col. 3, line 7; col. 17, lines 11-27; Fig. 1-23).

(C) As per original claim 3, Kraftson discloses the system according to claim 1 applied to a medical care provider, wherein said customer is a patient, said system further comprising:

- (1) a comparative practice data repository for storing and retrieving said survey data and for storing and retrieving said analyzed data and for storing and retrieving said assessed survey information (Kraftson: abstract; col. 4, line 59-col. 5, lines 62; col. 10, line 31; Fig. 1-23);

- (2) a historical data repository on clinic performance for storing fiscal historical performance normative data for use by said office data presentation module for generating and displaying historical fiscal performance comparisons for predicting fiscal success (Kraftson: abstract; col. 4, line 59-col. 5, lines 62; col. 10, line 31; Fig. 1-23); and
- (3) a clinical and pathophysiologic normative data repository for storing clinical and pathophysiologic normative data obtained from various sources, said clinical and pathophysiologic normative data relating patient parameters including age, gender, and medical conditions (Kraftson: abstract; col. 2, lines 51-col. 3, line 7; col. 4, line 58-col. 5, line 63; Fig. 1-23).

Examiner also notes that nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, as discussed in section 3. (A), *supra*.

(D) As per original claim 4, Kraftson discloses the system according to claim 3 wherein said customer viewpoint data includes:

- (1) customer satisfaction data;
- (2) office process viewpoint data;
- (3) provider care and concern data; and

- (4) verbatim viewpoint comments (Kraftson: abstract; col. 2, lines 51-col. 3, line 7; col. 4, line 58-col. 5, line 63; Fig. 1-23).

As per the further recitations expanding, *inter alia*, “employee viewpoint data,” “job performance data,” “team function data,” “employee function data,” and “fiscal performance data,” it is respectfully submitted that the technique of using various data, culled from the immense variety of ubiquitous sources, for analysis purposes is well known and obvious. One of ordinary skill in the art would have found it obvious at the time of the invention to incorporate these data with the motivation of improving the quality of products or services rendered (Kraftson: abstract).

Examiner also notes that nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, as discussed in section 3. (A), *supra*.

- (E) As per original claim 5, Kraftson discloses the system according to claim 4 wherein said analyzed data includes:

- (1) a comparative patient level data for storing in said clinical and pathophysiological normative data repository, said comparative patient level data (Kraftson: abstract; col. 2, lines 51-col. 3, line 7; col. 4, line 58-col. 5, line 63; Fig. 1-23) including:

- (a) patient age data;
 - (b) patient gender data;
 - (c) patient functional health status data;
 - (d) patient health screening data;
 - (e) patient family medical history data;
 - (f) patient medication data;
 - (g) patient pathophysiology data;
 - (h) patient health habits data;
 - (i) patient counseling data;
 - (j) patient satisfaction data;
 - (k) patient health care access data; and
 - (l) patient payment capability data (Kraftson: abstract; col. 2, lines 51-col. 3, line 7; col. 4, line 58-col. 5, line 63; Fig. 1-23);
- (2) comparative data for stored in said comparative practice data repository (Kraftson: abstract; col. 2, lines 51-col. 3, line 7; col. 4, line 58-col. 5, line 63; Fig. 1-23); and
- (3) analyzed data stored in said comparative practice data repository (Kraftson: abstract; col. 2, lines 51-col. 3, line 7; col. 4, line 58-col. 5, line 63; Fig. 1-23).

Art Unit: 3626

Examiner also notes that nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, as discussed in section 3. (A), *supra*.

(F) As per original claim 6, Kraftson discloses the system according to claim 5 wherein said assessed survey information includes:

- (1) patient viewpoint results including:
 - (a) office process viewpoints;
 - (b) provider care and concern viewpoints;
 - (c) overall visit viewpoints; and
 - (d) verbatim comments on processes (Kraftson: abstract; col. 2, lines 51-col. 3, line 7; col. 4, line 58-col. 5, line 63; Fig. 1-23).

As per the further recitations regarding, *inter alia*, “functional health status results” and “fiscal performance viewpoint results,” it is respectfully submitted that the technique of using various data, culled from the immense variety of ubiquitous sources, for analysis purposes is well known and obvious. One of ordinary skill in the art would have found it obvious at the time of the invention to incorporate these data with the motivation of improving the quality of products or services rendered (Kraftson: abstract).

Examiner also notes that nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, as discussed in section 3. (A), *supra*.

(G) Original claim 7 substantially repeats the same limitations of claim 5 and is therefore, rejected for the same reasons given for claim 5 and incorporated herein.

(H) Original claims 8 and 9 substantially repeat the same limitations of claims 6 and are therefore rejected for the same reasons given for claim 6 and incorporated herein.

(I) As per original claim 10, Kraftson fails to *expressly* disclose the system according to claim 1 applied to a medical care provider wherein said customer is a patient and further wherein said analyzed data includes:

- (1) patient family and social histories;
- (2) reviews of health habits;
- (3) health concerns;
- (4) medication reviews;
- (5) health screening information; and
- (6) recommendations based on nationally accepted guidelines, age, gender, and condition specific care.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses the system according to claim 1 applied to a medical care provider wherein said customer is a patient and further wherein said analyzed data includes:

- (1) patient family and social histories;
- (2) reviews of health habits;
- (3) health concerns;
- (4) medication reviews;
- (5) health screening information; and
- (6) recommendations based on nationally accepted guidelines, age, gender, and condition specific care (Joao: abstract; col. 41, line 55-col. 43, line 29; col. 16, line 33-col. 20, line 30; Fig. 1-15B).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Joao with the combined teachings of Kraftson and Siegrist with the motivation of improving the quality of products or services rendered (Joao: col. 2, lines 46-54).

Examiner also notes that nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, as discussed in section 3. (A), *supra*.

Art Unit: 3626

(J) Claims 11, 14 and 15-34 substantially repeat the same limitations as claims 1-11 and therefore, are rejected for the same reasons given for those claims and incorporated herein.

(K) As per claims 35 and 36, Examiner takes Official Notice of the following techniques: (1) displaying/presenting assessed survey information in real time or near real time from a collection of survey data; (2) generating reports; and (3) displaying/presenting assessed survey information in seconds.

Examiner notes that the exigencies of commercial globalization and the advent of modern technologies, such as the Internet, have fostered a world where rapid accumulation, processing, analysis, and dissemination of voluminous information are not only expected, but also vital. Online consumer survey polls and real-time election voting polls are but two examples where the aforementioned techniques are employed. Whether via newspapers, television, radio and/or the Internet, the techniques of displaying/presenting assessed survey information in real time or near real time from a collection of survey data; generating reports; and displaying/presenting assessed survey information in seconds.

As such, Examiner respectfully submits that the features of claim 35-36 are old and notoriously well known. Moreover, Examiner submits that these features were developed and widely used well prior to Applicant's claimed invention.

Art Unit: 3626

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Joao with the combined teachings of Kraftson and Siegrist with the motivation of processing survey information faster and more effectively.

(L) Claims 39-40, 41-41, 43-44, 45-50 substantially repeat the same limitations as those given in claims 35-36 and therefore, are rejected for the same reasons given for those claims and incorporated herein.

(M) Claim 51 substantially repeats the same limitations as those given in claims 1-11 and therefore, is rejected for the same reasons given for those claims and incorporated herein

6. Claims 12-13 and 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraftson, Joao and Siegrist as applied to claims 1-11 and 14-33 above, and further in view of Plantec et al. (6,826,540; hereinafter Plantec).

(A) As per original claim 12, Kraftson fails to *expressly* disclose a system for collecting, processing, and presenting survey information for a medical care provider comprising: an interactive voice recognition module.

Nevertheless, this feature is old and well known in the art, as evidenced by Plantec. In particular, Plantec discloses a system for collecting, processing, and

Art Unit: 3626

presenting survey information for a medical care provider comprising: an interactive voice recognition module (Plantec: abstract; col. 3, line 65-col. 4, line 1; Fig. 2).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Plantec with the combined teachings of Kraftson, Joao and Siegrist with the motivation of automating the collection of survey data (Plantec: abstract).

The remainder of claim 12 substantially repeats the same limitations as claims 1-11 and is therefore, rejected for the same reasons given for those claims and incorporated herein.

(B) Original claim 13 substantially repeats the same limitations as claim 2 and is therefore, rejected for the same reasons given for claim 2 and incorporated herein.

(C) Claims 37-38 substantially repeat the same limitations as those given in claims 35-36 and therefore, are rejected for the same reasons given for those claims and incorporated herein

Response to Arguments

7. Applicant's arguments filed 6/21/07 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 6/21/07.

(A) On page 39 of the 6/21/07 response, Applicant re-argues that none of the references teach or suggest that “historical survey data is used to generate analyzed feedback for display to the survey participant, where the material is formatted in a custom manner based on whether the participant is a customer, employee, or a manager.”

In response, Examiner respectfully submits that the combined teachings of Kraftson, Joao, Siegrist, and Plantec, *in toto*, do indeed teach the aforementioned limitation. For example, Joao teaches that any user (e.g., customer, employee, manager, etc.) can utilize his invention in the same, similar, and/or analogous manner (e.g., generate feedback/reports based on historical data) (Joao: col. 4, lines 27-33)—Examiner notes that a given user would naturally customize the format of their report by, *inter alia*, culling the information they deem to be pertinent for their respective needs as a customer, employee, manager, etc. Joao also teaches that various formats of reports (i.e., feedback), such as, *inter alia*, patient/customer reports (Joao: col. 20, lines 21-27).

(B) On pages 39-40 of the 6/21/07 response, Applicant re-argues that the “non-functional descriptive material” rejection was not proper because Examiner ignored the fact that the data in question does, indeed, alter how a computer using the routines of the invention functions.

Examiner respectfully reiterates that a computer that differs from the prior art solely with respect to nonfunctional descriptive material cannot alter how the machine

Art Unit: 3626

functions (i.e., the descriptive material does not reconfigure the computer). With respect to Applicant's invention, the descriptive material (e.g., practice data, historical performance normative data, etc.) does not reconfigure the computer *per se*. In other words, the computer remains configured to perform the same the same functions, that is, to process various nonfunctional descriptive material (e.g., practice data, historical performance normative data, etc.).

Furthermore, Examiner respectfully submits that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. In other words, if the prior art structure is capable of performing the intended use, then it meets the claim.

For example, system claim 1 essentially discloses the following structures: 1) an automated survey communication system; 2) a customer viewpoint module; 3) a personal clinical data analysis module; 4) an office team viewpoint module; 5) an office fiscal performance viewpoint module; and 6) an office data presentation module.

Moreover, system claim 1 recites the following intended uses for the system's structures: 1) an automated survey communication system *for connecting to survey participants*; 2) a customer viewpoint module *for providing software scripts to said survey communication system*; 3) a personal clinical data analysis module *for automatically generating analyzed data*; 4) an office team viewpoint module *for providing software scripts to said survey communication system*; 5) an office fiscal performance viewpoint module *for providing software scripts to said survey*

communication system; and 6) an office data presentation module *for generating assessed survey information* [Emphasis added].

As such, Examiner respectfully submits that a broad, yet reasonable, interpretation of the combined teachings of Kraftson, Joao, Siegrist, and Plantec teach each of the structural elements of Applicant's claimed invention. Furthermore, Examiner submits that the system derived from the prior art combination of Kraftson, Joao, Siegrist, and Plantec is capable of performing the intended use of Applicant's claimed invention recited in claim 1. Moreover, Examiner avers that Applicant's claimed invention is not patentably distinguished over the prior art because there is no structural difference between Applicant's claimed invention and the prior art prior art combination of Kraftson, Joao, Siegrist, and Plantec.

In short, Examiner submits that the prior art structure taught by the combination of Kraftson, Joao, Siegrist, and Plantec is capable of performing the intended use of Applicant's claimed invention and therefore, meets the recited limitations of claim 1.

(C) On page 40 of the 6/21/07 response, Applicant argues that Examiner has not provided the proper motivation for supporting a prima facie case of obviousness, and thus the rejections are not proper for this reason as well.

In response to applicant's argument that there is no suggestion to combine the references, Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the

Art Unit: 3626

references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Moreover, "In determining the propriety of the Patent Office case for obviousness in the first instance, it is necessary to ascertain whether or not the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the reference before him to make the proposed substitution, combination, or other modification." *In re Linter*, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

In the instant case, Examiner respectfully submits that the prior art does suggest the desirability of combining the aforementioned references and that the prior art teachings are sufficient for one of ordinary skill in the art having the aforementioned references before him or her to make the proposed substitution, combination, or other modification.

(D) Applicant's remaining arguments rely upon or re-hash the issues addressed above and in previous Office Actions. Therefore, these remaining arguments are moot in view of the responses previously given and incorporated herein.

Art Unit: 3626

Conclusion

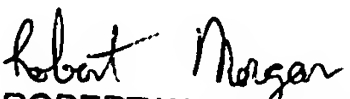
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MT




ROBERT W. MORGAN
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600